

Simon G. THOMPSON, *et al.*
Serial No. 10/560,615
April 24, 2009

AMENDMENTS TO THE DRAWINGS:

Applicants submit concurrently herewith four (4) sheets of annotated drawings illustrating Figs. 1-4 with proposed amendments shown in red ink, accompanied by four (4) sheets of replacement drawings incorporating the changes.

Attachments: Replacement Sheets: 4
Annotated Sheets Showing Changes: 4

Simon G. THOMPSON, *et al.*
Serial No. 10/560,615
April 24, 2009

REMARKS/ARGUMENTS

Reconsideration of this application is respectfully requested.

In response to the formality-based objection to claims 2, 3, 5 and 6 as not ending with a period, attention is directed to applicants' preliminary amendment submitted on December 14, 2005, concurrently with the request for this National Stage proceeding, wherein such punctuation was added. In any event, the above restated claims all include a period at the end and begin with a capital letter as required.

In response to the formality-based objection to claim 4, suitable amendments have been made to ensure that this independent claim has a preamble, transition language and is then followed by the body of a claim – in the standard traditional U.S. format.

In response to the rejection of claims 1-3 under 35 U.S.C. §112, second paragraph, these claims have been amended above so as to avoid the phrase “agent means.”

In response to the rejection of claims 1 and 4 under 35 U.S.C. §112, second paragraph, these claims have also been amended so as to avoid having the word “agent” precede the word “means.”

In response to the rejection of claim 7 under 35 U.S.C. §112, second paragraph, this claim has been amended so as to avoid the phrase “program or suite of programs.”

Simon G. THOMPSON, *et al.*
Serial No. 10/560,615
April 24, 2009

In response to the rejection of claims 1-3 under 35 U.S.C. §101 because they are allegedly directed to non-statutory subject matter, these claims have been amended so as to specifically recite apparatus having structural definition within the claims. With respect to antecedent basis in the specification and drawings, the Examiner is respectfully referred to the hardware structures defined by Figs. 1 and 2 and associated specification text and the interrelationship therewith of executable computer program code as described in the flow charts of Figs. 3 and 4 and related text in the specification.

As now amended, claims 1-3 clearly fit within the statutory classes of "apparatus" and "an article of manufacture."

In response to the rejection of claims 1 and 4 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter, since the phrase "agent means" has been removed from these claims, this ground of objection/rejection has been mooted. Clearly, the claims as presently amended cannot possibly be "reasoned to be human beings performing the steps within the process..."

In response to the rejection of claims 5-6 under 35 U.S.C. §101 because they are allegedly directed to non-statutory subject matter, these claims have been amended above so as to tie them to a particular machine. In addition, it is respectfully noted that inherently a "state machine" such as a computer operating under program control necessarily transforms the underlying subject matter (e.g., magnetic storage media) to a different state. Indeed, upon each clock cycle of program execution, there are

Simon G. THOMPSON, *et al.*
Serial No. 10/560,615
April 24, 2009

numerous registers and/or memory sites formed of various materials (e.g., semi-conductors, magnetizable medium, etc.) which transition from one identifiable physical state to another. Without such transitioning of physical substances between states, a computer would not function.

In response to the rejection of claim 7 under 35 U.S.C. §101 because it is allegedly directed to non-statutory subject matter, claim 7 has been amended so as to now be explicitly directed to a computer-readable memory medium containing executable computer program code, etc. Therefore, claim 7 clearly falls within the statutory classes of “apparatus” and “an article of manufacture.”

Accordingly, all formality-based issues are now believed to have been overcome in the applicants' favor.

The rejection of claims 1-7 under 35 U.S.C. §102 as allegedly anticipated by Ausubel '975 is respectfully traversed.

Ausubel, at 1:61-2:2 and 3:51-59 (in conjunction with Figs. 2, 3A-C and 8), describes a system in which users can create a bid that will be made if some condition becomes true in the future. For example, a maximum price is submitted to the system, to be enacted only if necessary to overbid someone else. This is, of course, how eBay® operates – the filing date of the cited reference is a few months after the launch of eBay®.

Simon G. THOMPSON, *et al.*
Serial No. 10/560,615
April 24, 2009

Applicants' claim 1 system (and claim 4 method) do not control bidding functions themselves, but the establishment of rules governing the bidding process, which the agents are then constrained to follow. For example:

"This auction will have a phase where you have 25 minutes to make a bid; after that we will take the top four bids and exclude everyone else. We will publish all the end bids of the auction so everyone can see at this point. The top four will then be asked every minute if they have a higher bid and when two consecutive minutes have passed with no higher bid, we will end the auction and the top two will have won. Alternatively, the auction will end after forty new bids have been made."

One can see the multi-stage nature of the mechanism from this example. The first agent, therefore, defines the process to be followed in this particular instance (instead of that process being pre-ordained) and promulgates the details of that process to the other participants to allow them to perform their part of the process.

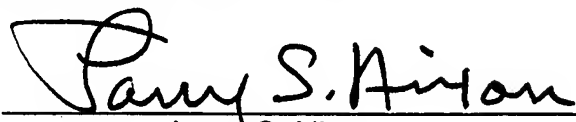
Given the fundamental deficiencies of Ausubel with respect to independent claims 1 and 4 as already noted above, it is not necessary at this point to discuss additional deficiencies of this reference with respect to other aspects of the claimed subject matter. Suffice it to note that, as a matter of law, it is impossible for any reference to anticipate a claim unless it teaches each and every feature of that claim.

Simon G. THOMPSON, *et al.*
Serial No. 10/560,615
April 24, 2009

Accordingly, this entire application is now believed to be in allowable condition,
and a formal notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 
Larry S. Nixon
Reg. No. 25,640

LSN:lef

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100

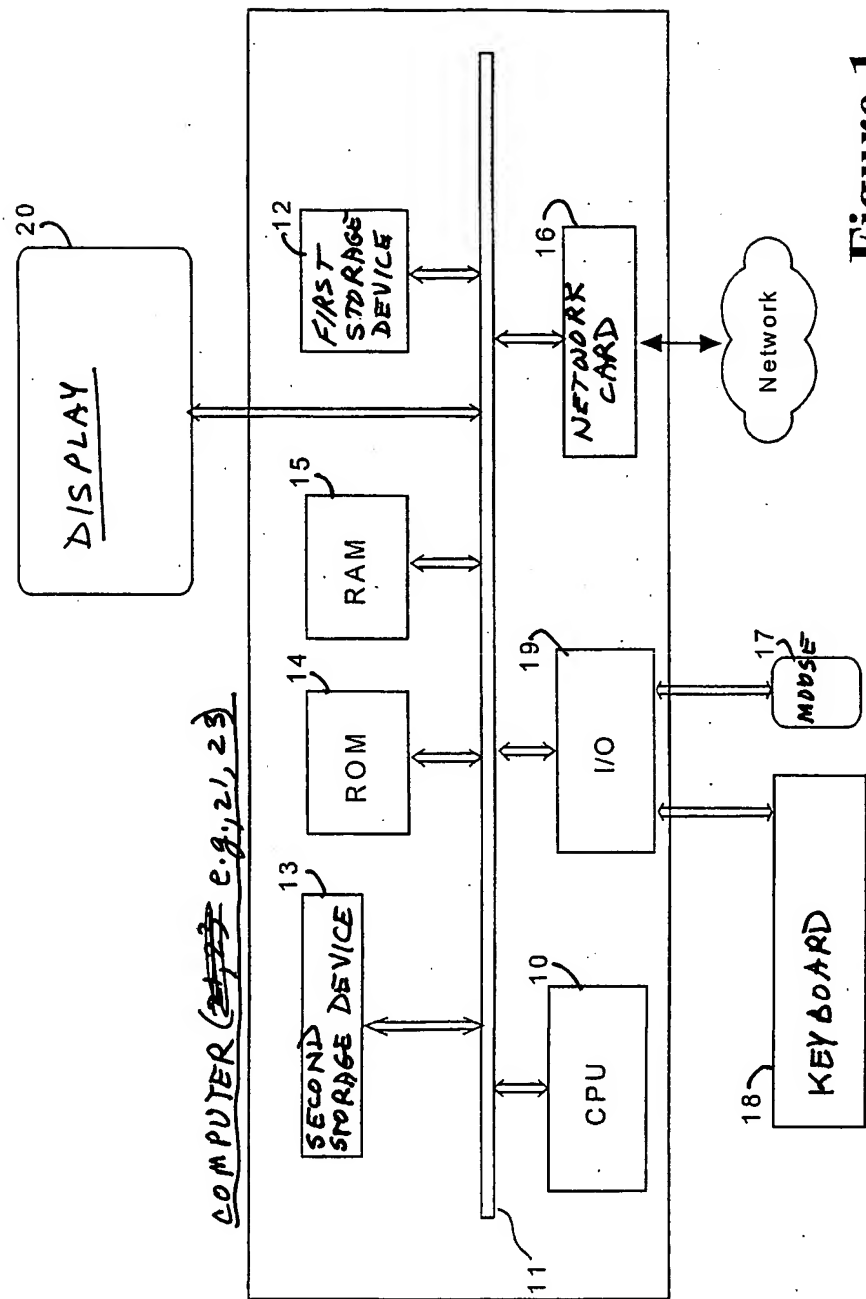


Figure 1

2/4

ANNOTATED MARKED UP DRAWINGS
FOR SN 10/560,615

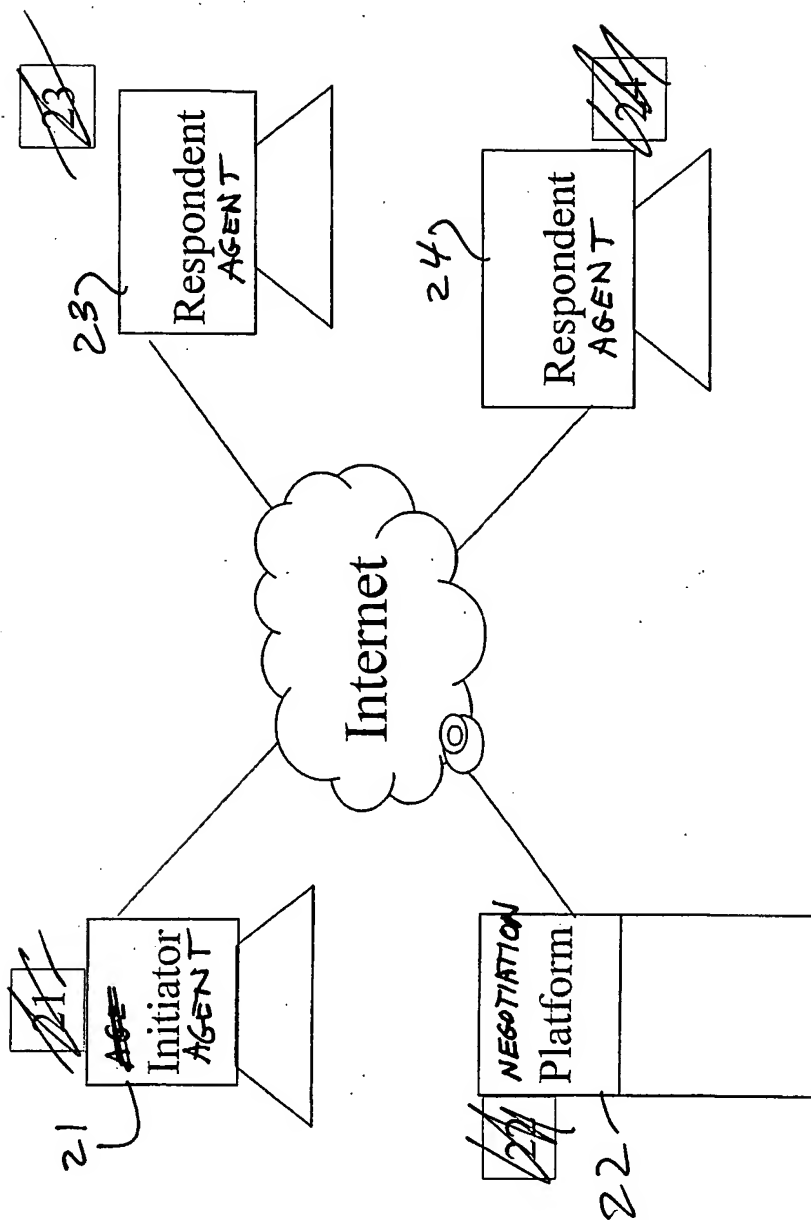


Figure 2

3/4

ANNOTATED MARKED UP DRAWINGS
FOR SN 10/560,615

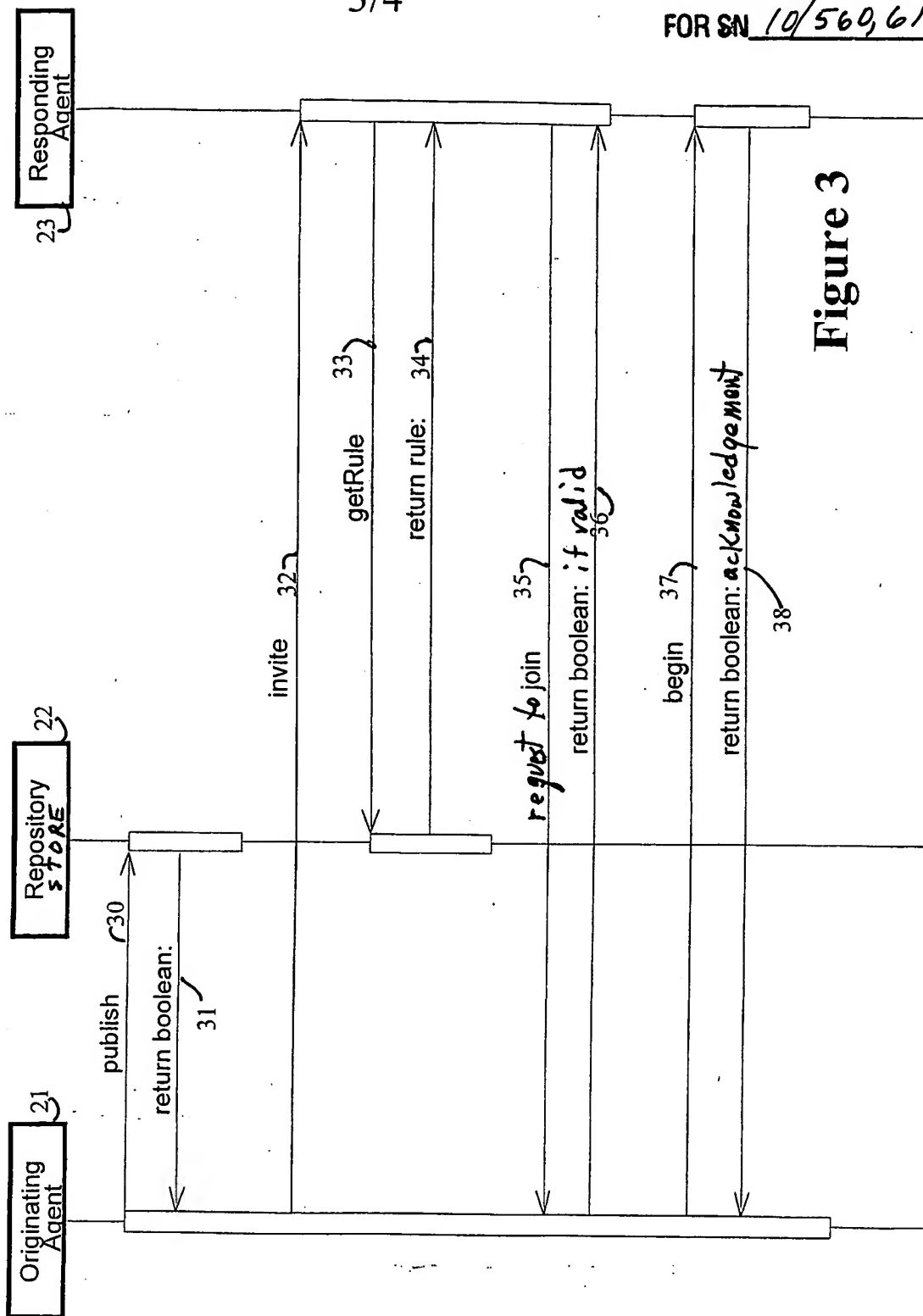


Figure 3

4/4

ANNOTATED MARKED UP DRAWINGS
FOR SN 10/560,615

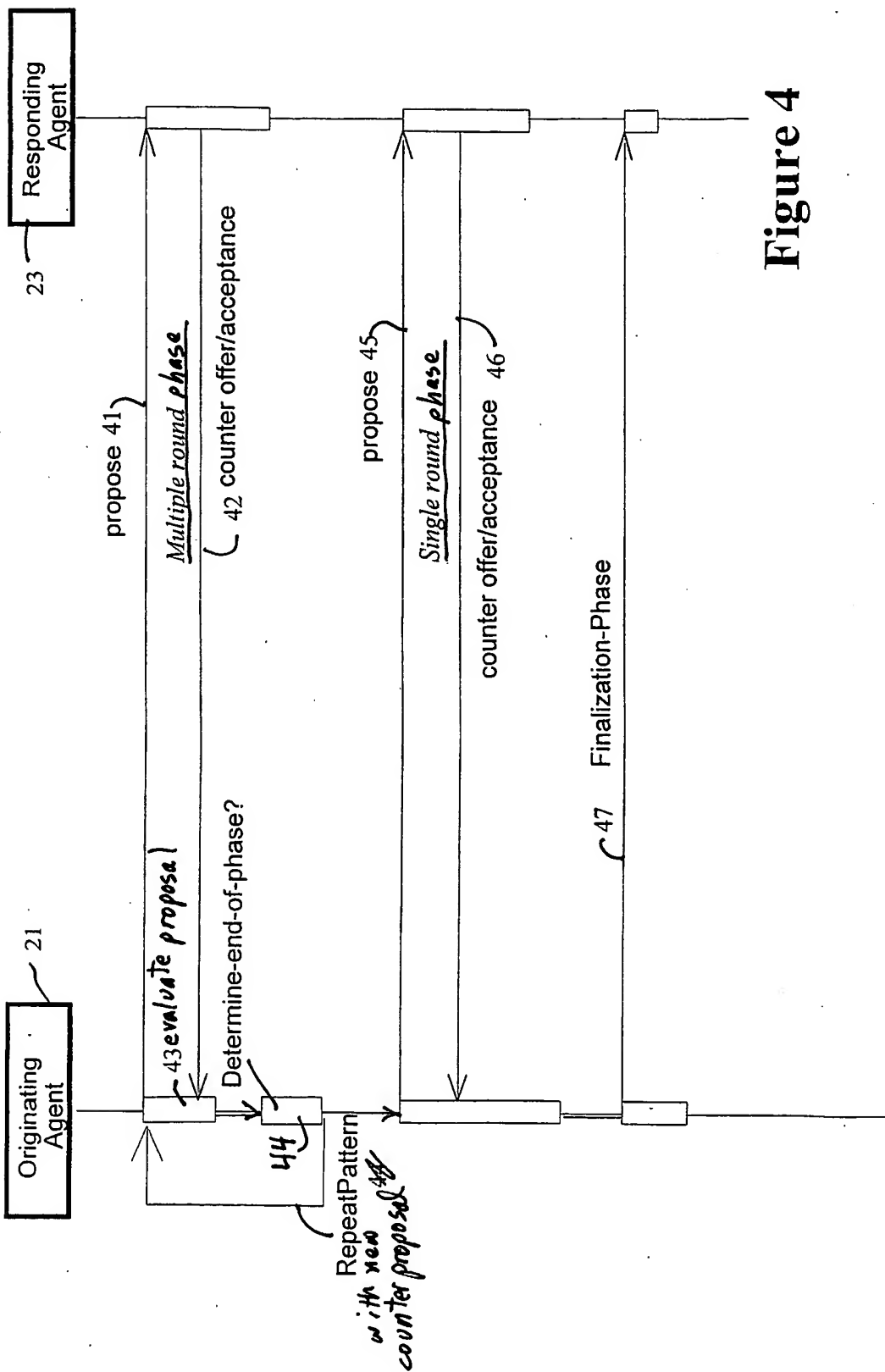


Figure 4